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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,166	01/14/2005	Hiroshi Morikawa	IRD-0004	5678
23353 7590 03/13/2009 RADER FISHMAN & GRAUER PLLC LION BUILDING 1233 20TH STREET N.W., SUITE 501 WASHINGTON, DC 20036			EXAMINER REINIER, BARBARA DIANE	
			ART UNIT 2625	PAPER NUMBER
			MAIL DATE 03/13/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Application Number</b> 	<b>Application/Control No.</b> 10/521,166 TWYLER L. HASKINS	<b>Applicant(s)/Patent under Reexamination</b> MORIKAWA, HIROSHI <b>Art Unit</b> 2625
<b>Document Code - AP.PRE.DEC</b>		

## Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 2/6/09.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☐ Other: \_\_\_\_\_

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

☒ The panel has determined the status of the claim(s) is as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 3, 7-9, 17, 18, 22, 23, 25-29.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) TWYLER L. HASKINS

(2) Edward Coles

(3) Barbara Reinier

(4) \_\_\_\_\_.

Continuation Sheet:

The Applicant states in the Specification, page 9, lines 8-17 the following: *"Each dot contains color information that specifies its own color. The color information may be black and white binary, or three-valued or more. However, note that in the first embodiment, a graphic composed of multiple dots containing three-valued or many-valued data is considered a color graphic including a gray-scale image. There is no limitation for how the color information represents a color, and therefore, either RGB or **CMY format**, or even a combination of brightness, saturation, and tone is acceptable. Moreover, any kind of data configuration is feasible so as to create the color information. These features apply to any embodiments other than this."*

The Applicant acknowledges a monochrome output of the currently cited art. Monochrome means "one color or a narrow band of wavelengths". As indicated by the Applicant, black and white are colors as well as a grayscale image. Hence, the cited art with the acknowledgement in there contained is made in light of the specification's definition of color. If the Applicant wishes to limit the claims to only applying to polychromatic color, then such limitations should be included.

With regards to the Applicant's request to show the well known nature of pseudo color principle, the Examiner draws the Applicant's attention to the following article published in 2001 and 2002:

Monochrome image representation and segmentation based on the pseudo-color and PCT transformations

Tang, H. Wu, E.X. Gallagher, D. Heymsfield, S.B.

Dept. of Radiol., Columbia Univ., New York, NY ;

This paper appears in: **Engineering in Medicine and Biology Society, 2001.**

**Proceedings of the 23rd Annual International Conference of the IEEE**

Publication Date: 2001

Volume: 3, On page(s): 2696- 2699 vol.3

ISSN: 1094-687X

ISBN: 0-7803-7211-5

INSPEC Accession Number: 7501844

Current Version Published: 2002-11-07